

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:08-cv-06822-FMC-Ex

Date October 29, 2008

Title Ann Travers et al v. City of Morro Bay et al

Present: The
Honorable

FLORENCE-MARIE COOPER

Alicia Mamer

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not present

Not present

Proceedings: ORDER TO SHOW CAUSE (In Chambers)

On December October 16, 2008, this action was removed to this Court. However, the jurisdictional allegations appear to be defective. Removal is on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1331, but it appears that the claims may not arise under federal law.

With their Notice of Removal, Defendants assert that Plaintiffs' case is removable pursuant to 28 U.S.C. § 1651, because the action constitutes a collateral attack on this Court's judgment in a related case, CV 07-7613, Sprint PCS Assets, LLC v. City of Morro Bay et al. ("2007 case"). However, Plaintiffs in the instant action were not parties to the 2007 case. Accordingly, Defendants are ordered to show cause why this case should not be remanded because it does not come within the scope of the jurisdiction the Court retained "for purposes of construction, modification, and enforcement of the Stipulated Judgment" in the 2007 case.

Additionally, Defendants' Notice of Removal asserts that Plaintiffs "also allege violation of Fifth and Fourteenth Amendments." Plaintiffs' claims appear to allege violations of state law in connection with the City Council's handling and approval of the settlement agreement and related matters. Accordingly, Defendants are also ordered to show cause why this case should not be remanded because it does not assert claims over which the Court can exercise federal question jurisdiction if Plaintiffs' claims do not come within the scope of the jurisdiction the Court retained over the settlement agreement between Sprint and the City.

Therefore, for the reasons and in the manner set forth above, the Court orders Defendants to show cause in writing no later than **November 6, 2008** why this action should not be remanded. This deadline shall not extend the time for responding to any motion for remand filed by Plaintiffs. Plaintiffs may submit a response not later than **November 13, 2008**. Thereafter, the Court will take the matter under submission, and the Court's Order will issue. The parties are reminded that copies of all electronically filed documents are to be delivered to Chambers. Failure of Defendants to respond by the above date will result in the Court remanding this action to state court.

: N/A

Initials of Preparer AM

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